

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

B.S., a minor, by her Next Friend and  
Mother, Lauren Sussex, and LAUREN  
SUSSEX, Individually,

Plaintiff,

Case No. 15-cv-10578  
Hon. Mathew F. Leitman

v.

UNITED STATES OF AMERICA,

Defendant.

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**ORDER REQUIRING SUPPLEMENTAL BRIEFING**

This is an action for damages under the Federal Tort Claims Act 28 U.S.C. §1346(b)(1) (“FTCA”). Plaintiff has filed a motion to exclude the testimony of Dr. Arthur Evans. Plaintiff contends that Dr. Evans’ testimony must be excluded because the testimony does not satisfy the requirements for admission set forth in Mich. Comp. Laws §600.2169 (“Section 2169”). In response, the United States contends, among other things, that Section 2169 does not apply in this action that is before the Court based upon federal-question jurisdiction.

The Court has conducted a preliminary review of the parties’ briefing and concludes that it would substantially benefit from supplemental briefing concerning whether Section 2169 applies in this federal-question action. The Court directs both parties to file a supplemental brief analyzing this question in greater detail. The

Court further directs the parties to include in their supplemental briefing an analysis of decisions from other federal courts concerning whether to apply other-state statutes like (or similar in some way to) Section 2169 in FTCA or other federal-question actions.

The parties shall simultaneously file their supplemental briefs by not later than August 17, 2018. The briefs shall not exceed fifteen pages.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: July 17, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 17, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
(810) 341-9764